

REMARKS

Favorable reconsideration of the subject application is respectfully requested in view of the following remarks. By this amendment, claims 62, 66 and 69 are canceled, and claim 67 has been amended to correct dependency in light of the cancellation of claims 62 and 69. Upon entry of this amendment, previously allowed claim 61, and claims 67 and 68 dependent therefrom, remain pending and under consideration. This amendment is not to be construed as acquiescence to any rejection and is made without prejudice to prosecution of any subject matter modified by the amendment in a related divisional, continuation, or continuation-in-part application.

Claims 62, 67 and 68 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly containing subject matter not described in the specification in such a way as to reasonably convey to one skilled in the art that Applicants had possession of the claimed invention. Specifically, the Examiner alleges that claim 62 introduces new matter and that claims 62, 67 and 68 do not meet the written description requirement in their recitation of L552S polynucleotide variants having at least 90% identity to SEQ ID NO:808. Similarly, the Examiner alleges that claim 66 does not satisfy the written description requirement in its recitation of polynucleotides that hybridize to SEQ ID NO:808 under moderately stringent conditions. In addition, the Examiner alleges that claims 69, 67 and 68 also fail to satisfy the written description requirement. More specifically, the Examiner asserts that L552S fragments lack sufficient description, since specific fragments and their alleged required core structure are not disclosed in the instant specification. However, the Examiner indicates that SEQ ID NO:808 meets the written description requirement.

Applicants traverse these bases of rejection and submit that the claims clearly satisfy the legal requirements of Section 112. Specifically, Applicants maintain the position that the skilled artisan would appreciate that L552S polynucleotide variants and fragments were in Applicants' possession at the time the instant application was filed, particularly since it would be readily appreciated that such polynucleotides could be used in the diagnosis of cancer, as described in the instant specification. Furthermore, Applicants submit that the biological activity of the encoded L552S polypeptide, or a fragment thereof, is entirely irrelevant, since any

polynucleotide having sufficient identity to all or a fragment of L552S can function diagnostically, as described.

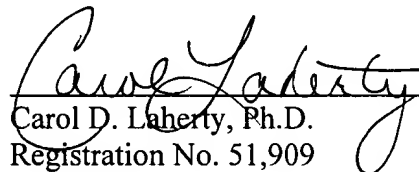
However, without acquiescence to any of these bases of rejection, and solely to expedite prosecution of the instant application, claims 62, 66 and 69 have been canceled, and claim 67 has been amended to correct its dependency in light of the cancellation of claim 62 and 69. Applicants submit that this amendment obviates the present bases for rejection and, therefore, requests that these rejections be withdrawn.

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

Applicants submit that all of the claims remaining in the application are clearly allowable. Favorable consideration and a Notice of Allowance are earnestly solicited.

Respectfully submitted,

SEED Intellectual Property Law Group PLLC


Carol D. Laherty, Ph.D.
Registration No. 51,909

CDL:jto

Enclosure:
Postcard

701 Fifth Avenue, Suite 6300
Seattle, Washington 98104-7092
Phone: (206) 622-4900
Fax: (206) 682-6031

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